



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

DEC 20 2001

Mr. David Ludder  
Legal Environmental Assistance Foundation, Inc.  
1114 Thomasville Road, Suite E  
Tallahassee, Florida 32303-6290

SUBJ: LEAF v. EPA

Dear Mr. Ludder:

As you know, the Consent Decree entered in LEAF v. EPA, No. CV-00-JEO-1971-S, (N.D.Ala.) on January 23, 2001, requires the Environmental Protection Agency (EPA) to either propose revised use designations for eight water segments in Alabama or withdraw the outstanding disapprovals of current use designations for those waters by January 15, 2002.

Recently, the Alabama Department of Environmental Management (ADEM) proposed revised use designations for the following waters covered by the Decree: Five Mile Creek, Pepperell Branch, Shirtee Creek, Valley Creek and Village Creek. As you know, the State previously submitted a revised use designation for Opossum Creek. As we have discussed with you, EPA believes that, rather than proposing federal revised use designations for these waters, it is preferable for the Agency to review any revisions to the use designations adopted by ADEM as a result of its current standards revisions process. The enclosed letter contains the State's schedule for completing these revisions and submitting them to EPA.<sup>1</sup> Based on that schedule, we have discussed a modification of the current deadline in the Decree for EPA action until October 15, 2002.

We also understand that LEAF and the Alabama Rivers Alliance would like to ensure that they and the public have an adequate opportunity to review any use attainability analyses (UAAs) relied upon by either ADEM or EPA to determine that any use designation less stringent than the State's "fish and wildlife" use designation is appropriate for a particular waterbody. EPA has been informed by ADEM that it will make available for public review and comment, at least 45 days prior to the public hearing currently planned for February 19, 2002, UAAs for each of the waters covered by the LEAF decree, unless ADEM proposes to upgrade those waters to "fish and wildlife". Therefore, the State water quality standards proceeding will provide an adequate

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<sup>1</sup> ADEM has recently informed EPA that it now intends to hold the public hearing on February 19 instead of February 12, the date indicated on the attached schedule, but that this change will not affect the other dates in its schedule.

opportunity for LEAF, the Alabama Rivers Alliance and the public to present their views regarding the adequacy of UAAs prepared for all of the waters covered by the LEAF decree.

When EPA reviews the State's submission to EPA under section 303(c) of the CWA, EPA will consider comments submitted by LEAF, the Alabama Rivers Alliance, and other members of the public on the UAAs prepared by the State to support any existing or revised use designations that are less protective than "fish and wildlife."

In addition, if ADEM fails to make the UAAs available for public review at least 45 days prior to the public hearing or fails to provide a public hearing on the UAAs prepared to support any existing or revised use designation, or if EPA determines that a UAA submitted by ADEM to EPA does not support the existing or revised use designation in accordance with 40 C.F.R. §§ 131.10 (g) and (j), EPA will hold a 30-day comment period and a public meeting in the affected geographic area on the UAA being considered by EPA in its review of the use designation, including UAAs prepared by EPA.

We believe that these commitments will ensure that the plaintiffs in this case have a full and adequate opportunity to provide comments on analyses considered by the State and EPA in determining appropriate use designations for these waters, and we look forward to your input in these important decisions.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Stanley Meiburg'.

A. Stanley Meiburg  
Acting Regional Administrator

Enclosure

**ADEM****ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

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**JAMES W. WARR**

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GOVERNOR

November 2, 2001

Mr. William Melville, Chief  
 West SMT Section  
 Water Management Division  
 U.S. EPA, Region 4  
 Atlanta Federal Center  
 61 Forsyth Street  
 Atlanta, GA 30303-3101

Dear Mr. Melville:

The following schedule has been established for reconsideration of the water quality standards revisions involving lake chlorophyll *a* criteria and upgrades in stream classifications. These dates are estimates at this time (particularly for Attorney General certification and submittal to EPA). We do not anticipate any significant changes in the schedule; we will notify you promptly if changes are necessary.

<u><b>ACTION</b></u>	<u><b>DATE</b></u>
Publication of Newspaper Notices	December 17-21, 2001
Publication of <i>Alabama Administrative Monthly Notice</i>	December 28, 2001
Public Hearing	February 12, 2002
Close of Comment Period	February 15, 2002
Adoption by Environmental Management Commission	April 9, 2002
Effective Date (under <i>AL Administrative Procedure Act</i> )	May 17, 2002
Certification by Attorney General	May 24, 2002
Submittal to EPA	May 31, 2002

Please let us know if you have any questions about the schedule, or if you desire additional information.

Sincerely,

James E. McIndoe

Deputy Chief, Water Division

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